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VIDEO SOFTWARE DEALERS ASSOCIATION  
and ENTERTAINMENT SOFTWARE ASSOCIATION

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VIDEO SOFTWARE DEALERS  
ASSOCIATION and ENTERTAINMENT  
SOFTWARE ASSOCIATION,

Plaintiffs,

vs.

ARNOLD SCHWARZENEGGER, in his official  
capacity as Governor of the State of California;  
BILL LOCKYER, in his official capacity as  
Attorney General of the State of California;  
GEORGE KENNEDY, in his official capacity as  
Santa Clara County District Attorney, RICHARD  
DOYLE, in his official capacity as City Attorney  
for the City of San Jose, and ANN MILLER  
RAVEL, in her official capacity as County  
Counsel for the County of Santa Clara,

Defendants.

CASE NO. C 05-4188 RMW (RS)

NOTICE OF  
SUPPLEMENTAL AUTHORITY

1 Plaintiffs Video Software Dealers Association and Entertainment Software Association  
 2 respectfully submit this Notice of Supplemental Authority to notify the Court of an Order issued by  
 3 the United States District Court for the Middle District of Louisiana on August 24, 2006. This Order  
 4 preliminarily enjoined enforcement of a Louisiana state law that would have imposed criminal fines  
 5 and imprisonment on persons who sold or rented to minors certain "violent video games," as defined  
 6 by the statute in question. *Entertainment Software Ass'n, et al. v. Foti*, No. 06-cv-00431 (M.D. La.  
 7 August 24, 2006). The Court held, *inter alia*, that the statute violated the First Amendment, that it  
 8 was void for vagueness, and that enforcement of the law would cause irreparable harm.

9 Specifically relevant to the motions for summary judgment pending in the instant case, the  
 10 *Foti* Court held that the "social science evidence" in the legislative record in support of the statute in  
 11 question is "much of the same evidence [that] has been considered by numerous courts and in each  
 12 case the connection [between violent video games and harm to minors] was found to be tenuous and  
 13 speculative." Order, p. 16 (citing *Entertainment Software Ass'n v. Hatch*, \_\_ F. Supp. 2d \_\_ WL  
 14 216302 (D. Minn. 2006); *Interactive Digital Software Ass'n v. St. Louis County*, 329 F.3d 958 (8th  
 15 Cir. 2003); *Entertainment Software Ass'n v. Blagojevich*, 404 F. Supp. 2d 1051, 1073 (N.D. Ill.  
 16 2005); *Entertainment Software Ass'n v. Granholm*, 426 F. Supp. 2d 646, 652-53 (E.D. Mich. 2006);  
 17 *Video Software Dealers Ass'n v. Schwarzenegger*, 401 F. Supp. 2d 1034, 1046 (N.D. Cal. 2005);  
 18 *Video Software Dealers Ass'n v. Maleng*, 325 F. Supp. 2d 1180, 1188-89 (W.D. Wash. 2004);  
 19 *American Amusement Mach. Ass'n v. Kendrick*, 244 F.3d 572, 578-79 (7th Cir. 2001)).

20 The Court also held that the statute in question is unconstitutionally vague, as "video  
 21 producers and retailers will be forced to guess at the meaning and scope of the Statute, and may  
 22 'respond by either self censoring or otherwise restricting access to any potentially offending video  
 23 game title.'" Order, pp. 25-26 (quoting *Granholm*, 426 F. Supp. 2d at 656; and citing *Blagojevich*,  
 24 404 F. Supp. 2d at 1077).

1 A true and correct copy of this Order is attached hereto for the Court's convenience.

2  
3 DATED: April 2, 2007.

Respectfully submitted.

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8 By: \_\_\_\_\_/s/  
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